

BILL NO. R-74-08-40

RESOLUTION NO. R- 69-74

A RESOLUTION authorizing the issuance and sale of \$700,000 Economic Development Revenue Bonds, Series 1974 (Gunnar Elliott Ice Arena Project) of the City of Fort Wayne, Indiana, for the purpose of acquiring real estate, machinery, equipment and related property comprising economic development facilities for lease and sale to Gunnar Elliott Ice Arena, Inc. authorizing execution of the lease; Providing for the pledge of revenues for the payment of said Bonds; Authorizing a mortgage and indenture of trust appropriate for the protection and disposition of such revenues; and Authorizing the sale of said bonds.

WHEREAS, the City of Fort Wayne, Indiana (hereinafter called the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of IC 1971, 18-6-4.5-1 through 18-4.5-28, inclusive, as amended (hereinafter called the "Act") is authorized and empowered to acquire economic development facilities as those words are defined in the Act and to lease said economic development facilities as lessor to others to overcome insufficient employment opportunities and insufficient diversification of industry in and near the City to promote the general economic welfare of the area in and near the City and to issue its economic development revenue bonds to pay all costs of purchase or construction of such economic development facilities including engineering, legal fees, and all other expenses related thereto during construction, including the costs of issuing the bonds and to secure said bonds by a trust indenture creating a security interest in such economic development facilities; and

WHEREAS, Gunnar Elliott Ice Arena, Inc. (the "Lessee") is a corporation duly organized under the laws of the State of Indiana, qualified to do business within the State of Indiana; and

WHEREAS, the Lessee has agreed to lease economic development facilities from the City and thereby create new employment opportunities and provide diversification of industry in and near the area of the City, and to pay rentals sufficient to pay the principal of and interest and premium on the economic development revenue bonds hereinafter authorized; and

WHEREAS, the Common Council of the City (the "Common Council") has heretofore by Special Ordinance No. S-19-72 and pursuant to IC 1971, 18-6-4-1 through 18-6-4-28, inclusive, created the Fort Wayne Economic Development Commission which by virtue of the Act has become the Fort Wayne Development Commission (the "Commission") and the members of the Commission have been duly appointed and qualified pursuant to law and the Commission has organized and undertaken the duties imposed upon it by the Act and has found by written resolution that because of existing insufficient employment opportunities and insufficient diversification of industry, the economic welfare of the City would be benefited by the acquisition and leasing to Gunnar Elliott Ice Arena, Inc. of economic development facilities, which lease to be guaranteed by Gunnar Elliott Ice Arena, Inc.; and

WHEREAS, the Commission has by such resolution approved a report

APPROVED AS TO FORM
AND LEGALITY, _____

estimating the public services which would be made necessary or desirable, the expense thereof, the number of jobs, the estimated payroll on account of the acquisition and leasing of the economic development facilities and the cost of construction of the economic development facilities and has submitted such report to the Plan Commission of the City of Fort Wayne; and

WHEREAS, said Plan Commission, upon receiving the report of the Commission, has formulated written comments concerning such estimate and have transmitted those comments to the Commission within the time provided by law; and

WHEREAS, after giving notice in accordance with the Act, the Commission held a public hearing on the proposed financing and adopted a resolution finding the proposed financing complies with the Act, approving the financing and approving the form and terms of the economic development revenue bonds proposed to be issued by the City to pay a portion of the cost of such facilities, the lease and indenture, which resolution and other instruments and information pertaining to the proposed financing have been transmitted to the Common Council of the City by the Secretary of the Commission; and

NOW THEREFORE, BE IT RESOLVED THE BY COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

SECTION 1. Public Benefits. The Common Council of the City hereby finds and determines that the real estate, machinery, equipment and other facilities in connection therewith (the "Project") to be acquired in part with the proceeds of the Economic Development Revenue Bonds, Series 1974 (Gunnar Elliott Ice Arena, Project) herein authorized are "economic development facilities" as that phrase is used in the Act and that the utilization of the property in the creation and location of the Project is economically sound will increase employment opportunities and increase diversification of industry in and near the City, will improve and promote the economic stability, development and welfare of the area in and near the City and will encourage and promote the expansion of industry, trade and commerce in the area in and near the City and the location of other new industries in such area.

SECTION 2. Findings. The Common Council hereby finds that this resolution (the "Bond Resolution") is of public benefit to the economic welfare of the City, by tending to overcome the deficiencies previously found to exist, to-wit" insufficient employment opportunities and insufficient diversification of industry, and recreation facilities, and that such benefit is greater than the cost of public facilities (as that phrase is defined in the Act), which will be required by the Project.

SECTION 3. Authorization of \$700,000 Economic Development Revenue Bonds. In order to pay a portion of the costs of acquiring the Project, there are hereby authorized to be issued, sold and delivered \$700,000 aggregate principal amount of Economic Development Revenue Bonds, Series 1974 (Gunnar Elliott Ice Arena Project) of the City (the Series "1974" Bonds"). It is hereby recognized that pursuant to the terms of the Lease the balance of the cost of the Project will be paid for by the Lessee unless paid for out of the proceeds of additional parity bonds (the "Additional Bonds") as identified in the Indenture.

SECTION 4. Definitions. In addition to the words and terms defined in this Bond Resolution, the words and terms used in this Bond Resolution shall have the meanings set forth in the Indenture, the Lease and unless the context or use indicates another or different meaning or intent and the form of the Series 1974 Bonds and the forms of the Lease, and Indenture, which forms are before this meeting are hereby incorporated by reference in this Bond Resolution and the Clerk is

hereby directed to insert them into the minutes of the Common Council to keep them on file.

SECTION 5. Terms for the Series 1974 Bonds. The total principal amount of Series 1974 Bonds that may be issued is hereby expressly limited to \$700,000, provided, however, that Additional Bonds may be issued as hereinafter provided.

The Bonds shall be subject to redemption prior to maturity upon the terms and as provided in the Indenture.

The Bonds shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the Clerk and shall have impressed or imprinted thereon the corporate seal of the City. The coupons attached to the Bonds, if any, shall be executed by the facsimile of the official signatures of the Mayor and Clerk and such facsimile on any Series 1974 Bonds or coupons shall have the same force and effect as if manually signed by such officer. The Bonds, together with interest thereon, shall be limited obligations of the City payable solely from the revenues and other amounts derived from the leasing or sale of the Project (except to the extent paid out of moneys attributable to the Bond proceeds or the income from the temporary investment thereof and under certain circumstances, proceeds from insurance and condemnation awards) and shall be a valid claim of the respective holders thereof only against the Bond Fund created under the Indenture and other moneys held by the Trustee and of the Project (but in addition shall be secured by a first mortgage lien on the Project), which revenues and other amounts shall be pledged and secured under the Indenture for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and the interest on the Bonds, except as may be otherwise expressly authorized in the Indenture. The Bonds and the interest thereon shall never constitute a charge against the general credit or taxing power of the City. In case any officer whose signature or facsimile of whose signature shall appear on the Bonds or coupons shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

SECTION 6. Additional Bonds. The City may authorize the issuance of Additional Bonds upon the terms and conditions provided the same rank as the Series 1974 Bonds, but shall bear such date or dates, bear such interest rate or rates, have such maturity dates, redemption dates and redemption premiums, and be issued at such prices as shall be approved in writing by the City and the Lessee.

SECTION 7. Sale of the Series 1974 Bonds. The Mayor and Clerk of the City are hereby authorized and directed to sell the Series 1974 Bonds. The Mayor is hereby authorized to execute and the Clerk is hereby authorized to attest, an Underwriting Agreement with the Underwriters providing for the sale of the Series 1974 Bonds on terms consistent with the Bond Resolution, and the Clerk is hereby directed to insert a copy of the Underwriting Agreement, in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of such instrument submitted to this Common Council approved hereby, and identified herein as the Underwriting Agreement, and to keep the same on file.

SECTION 8. Indenture. In order to secure the payment of the principal of and interest on the Bonds, the Mayor and Clerk shall execute, acknowledge and deliver in the name and on behalf of the City, a Mortgage and Indenture of

Trust, herein identified as and called the Indenture, in the form submitted to this Common Council, which is hereby approved in all respects; and the Clerk is hereby directed to insert a copy thereof in the form submitted to this Common Council, which is hereby approved in all respects; and the Clerk is hereby directed to insert a copy thereof in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of Indenture so submitted to this Common Council and approved by this Bond Resolution and identified herein as the Indenture and to keep such Indenture on file. Said Indenture contains provisions authorized and permitted by the Act, and this Bond Resolution shall constitute a part hereof as therein provided and for all purposes of said Indenture, including the provisions thereof relating to amendments and the severability of provisions of the Indenture.

SECTION 9. Lease. In order to provide for the leasing of the Project and the payment of rent sufficient in amount to pay the principal of and premium, if any, and interest on the Series 1974 Bonds, the Mayor and Clerk shall execute, acknowledge and deliver in the name and on behalf of the City a Lease Agreement, herein identified as and called the Lease, in the form submitted to this Common Council, which is hereby approved in all respects; and the Clerk is hereby directed to insert a copy of the Lease in the form submitted to this meeting and approved hereby, in the minutes of this Common Council and to certify thereon that the same is the form of Lease submitted to this Common Council and approved by this Bond Resolution and identified herein as the Lease, and to keep such Lease on file. Said Lease contains provisions authorized and permitted by the Act.

SECTION 10. Acquisition of Title. The Mayor is authorized, on behalf of the City, to use a portion of the proceeds of the bonds to acquire a fee simple title to the Leased Land (as defined in the Lease) and to obtain a deed evidencing such title.

SECTION 11. General. The Mayor, Clerk, and City Controller be and they are each hereby authorized and directed, in the name of and on behalf of the City to execute any and all instruments, perform any and all acts, approve any of them, to be necessary or desirable in order to carry out the purposes of this Bond Resolution (including the preambles hereto), the acquisition of and the leasing of the Project to the Lessee, the issuance and sale of the Series 1974 Bonds, and the securing of the Series 1974 Bonds under the Indenture.

All documents before this meeting, including the Indenture, the Lease, are subject to completion in conformity with this Bond Resolution. The Mayor and the Clerk, and each of them, is hereby authorized to execute and deliver said Indenture and Lease, in substantially the form of said document before this Common Council, on behalf of the City, with such changes therein as such officials with the advise of counsel may determine, as conclusively evidenced by his execution thereof, to be advisable and in the best interests of the City and in conformance with this Bond Resolution.

SECTION 12. Prior Proceedings. All action taken by the Commission in connection with the Project is, to the extent not inconsistent with the Bond Resolution, ratified and confirmed and incorporated herein.

SECTION 13. Recognition of New Legislation. It is hereby recognized that pursuant to Senate Enrolled Act No. 325, the Act became effective upon its approval by the Governor on April 23, 1973, and that pursuant to Section 3 of said Act No. 325, the Commission created by Special Ordinance No. S-19-72 of the City continues with the powers and duties of a "development commission" under the Act.

SECTION 14. Effective Date. This Bond Resolution shall be in full force and effect immediately upon its adoption by the Common Council and approval by the Mayor.


Councilman

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: _____

CITY CLERK

Read the third time in full and on motion by Hingo, seconded by V. Schmidt, and duly adopted, placed on its passage.

Passed (~~DEF~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATE: 8-27-74

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. R-69-74 on the 27th day of August, 1974.

ATTEST: (SEAL) Samuel J. Talarico
Charles W. Westerman CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of August, 1974, at the hour of 11 o'clock A M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 28th day of August, 1974, at the hour of 4:00 o'clock P. M., E.S.T.

Paul H. Leary
MAYOR